

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODULFO PEREZ-ESCALENTE,

Defendant.

**No. 11-CR-4008-DEO**

**ORDER ACCEPTING REPORT  
AND RECOMMENDATION  
CONCERNING GUILTY PLEA**

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**I. INTRODUCTION AND BACKGROUND**

On January 19, 2011, a one count Indictment (Docket No. 2) was returned in the above-referenced case.

Count 1 of the Indictment charges that on about December 16, 2010, in the Northern District of Iowa, defendant, Rodulfo Perez-Escalante, an alien citizen of Guatemala, was found knowingly and unlawfully in the United States after having been previously removed from the United States to Guatemala on about August 19, 2006. Defendant did not obtain the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Section 202(3) and (4) and Section 557), to reapply for admission into the United States prior to re-entering the United States on an unknown date at an unknown location.

This was in violation of Title 8, United States Code, Sections 1326(a).

On February 3, 2011, defendant Rodulfo Perez-Escalante appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment.

In the Report and Recommendation (Docket No. 10, 02/03/2011), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Rodulfo Perez-Escalante's guilty plea be accepted. Waiver of objections to Judge Zoss's Report and Recommendation were filed by each party (Docket Nos. 11 and 12). The Court, therefore, undertakes the necessary review to accept defendant Rodulfo Perez-Escalante's plea in this case.

## **II. ANALYSIS**

### **A. Standard of Review**

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings

or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

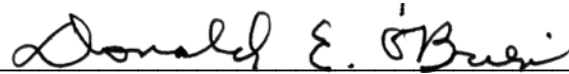
FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

**IT IS THEREFORE HEREBY ORDERED** that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 10), and accepts defendant Rodulfo Perez-Escalante's plea of guilty in this case to Count 1 of the

Indictment (Docket No. 2).

**IT IS SO ORDERED** this 4th day of March, 2011.

A handwritten signature in cursive script, reading "Donald E. O'Brien", written in black ink.

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Donald E. O'Brien, Senior Judge  
United States District Court  
Northern District of Iowa